

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

WILLIAM T. OBEID, directly and derivatively on behalf
of GEMINI REAL ESTATE ADVISORS LLC, et al.

Plaintiff,

v.

CHRISTOPHER LA MACK and DANTE MASSARO

Defendants,

and

GEMINI REAL ESTATE ADVISORS LLC, et al.,

Nominal Defendants.

No. 14 CIV. 6498

**NOTICE OF MOTION TO
DISMISS OR STAY THE
ACTION**

PLEASE TAKE NOTICE that, upon the accompanying Declaration of Noreen Kelly-Dynega, the Declaration of Dante A. Massaro, and the memorandum in support, the undersigned will move before the Honorable Judge Laura T. Swain of the United States District Court for the Southern District of New York, at the United States District Courthouse, located at 500 Pearl Street, New York, NY 10007, Courtroom 12D, at a time and place to be scheduled by this Court, for an order pursuant to Rule 12(b)(3) of the Federal Rules of Civil Procedure granting Defendants' Motion to Dismiss this action because it is duplicative of a pending lawsuit previously filed in another jurisdiction. In the alternative, Defendants ask that this Court stay Plaintiff's case pending the outcome of that lawsuit.

Defendants certify that they complied with Judge Swain's Rule A.2(b) regarding the use of best efforts to resolve the issues in this motion. The parties were unable to resolve the underlying issues, and this motion thus remains necessary.

This is the 25th day of August, 2014.

Respectfully submitted,

/s/ Noreen A. Kelly-Dynega

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